



# Department of Justice

FOR IMMEDIATE RELEASE  
WEDNESDAY, MARCH 26, 1997

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## **JUSTICE DEPARTMENT'S ONGOING PROBE INTO THE FOOD AND FEED ADDITIVES INDUSTRY YIELDS \$25 MILLION MORE IN CRIMINAL FINES**

### **Investigation has Recovered More Than \$195 Million in Fines**

WASHINGTON, D.C.--Two international Swiss chemical companies--F. Hoffmann-La Roche Ltd. and Jungbunzlauer International AG--have agreed to plead guilty and pay criminal fines totaling \$25 million for participating in an international conspiracy to fix prices and allocate market shares in the citric acid market worldwide, the Department of Justice announced today. Two of the companies' executives also agreed to plead guilty and pay criminal fines totaling \$300,000 for their part in the conspiracy.

With today's fine, the Department's food and feed additives investigation has recovered more than \$195 million in criminal fines.

"The Department will continue to seek out and prosecute all international conspiracies that increase prices for consumers and unfairly impede free and open competition in our markets," said Joel I. Klein, Acting Assistant Attorney General in charge of the Department's Antitrust Division.

Hoffmann-La Roche has agreed to pay \$14 million and Jungbunzlauer has agreed to pay \$11 million for their participation in the conspiracy.

Udo Haas, the former Managing Director of SA Citrique Belge NV--the citric acid-producing affiliate of Hoffmann-La Roche, and Rainer Bichlbauer, the Chairman and President of Jungbunzlauer, have also agreed to plead guilty and each pay a \$150,000 criminal fine for their role in the international citric acid conspiracy. Haas is a German citizen and Bichlbauer is Austrian.

This is the fifth round of cases filed as a result of the Department's ongoing investigation into illegal, collusive practices in the food and feed additives industry.

In October 1996, Archer Daniels Midland Co. agreed to plead guilty and pay a \$100 million criminal fine--the largest criminal antitrust fine ever--for its participation in international conspiracies involving two such additives--citric acid and lysine. In January 1997, Haarmann & Reimer Corp., a New Jersey-based subsidiary of the Germany-based pharmaceutical and chemical giant Bayer AG, agreed to plead guilty and pay a \$50 million criminal fine for its participation in the citric acid conspiracy.

Today's charges mark another chapter in the Department's ongoing investigations being conducted by the San Francisco, Chicago, and Atlanta Field Offices of the Antitrust Division, the Federal Bureau of Investigation in San Francisco and Springfield, Illinois, and the U.S. Attorneys' Office in Chicago.

Citric acid is a flavor additive and preservative produced from various sugars. It is found in soft drinks, processed food, detergents, pharmaceutical and cosmetic products. Citric acid is a \$1.2 billion a year industry worldwide.

The charges against Hoffmann-La Roche, Haas, Jungbunzlauer, and Bichlbauer were filed today in U.S. District Court in San Francisco. The pleading parties have authorized the government to disclose the basic terms of the plea agreements under which the charges were filed. As part of their plea agreements, which must be accepted by the court, the parties have agreed to cooperate in the ongoing government investigations.

"With our new global economy, the Antitrust Division's top priority in criminal enforcement is to investigate and prosecute international cartels that hurt American consumers," said Gary R. Spratling, the Antitrust Division's Deputy Assistant Attorney General for Criminal Enforcement. "Today's charges against Swiss, Austrian and German defendants, coupled with earlier food and feed additives industry cases against Japanese, Korean, German and American defendants, demonstrates that we will prosecute members of price fixing cartels wherever they are located."

The felony cases charge that Hoffmann-La Roche and Jungbunzlauer, through several of their employees, conspired with other unnamed major citric acid-producing firms, to suppress and eliminate competition in the citric acid market from July 1991 to June 27, 1995.

The Department charges that representatives of Hoffmann-La Roche and Jungbunzlauer met with their co-conspirators in the citric acid markets to set the prices and allocate the market shares of citric acid that each participating firm could sell.

The single-count felony informations charge that the companies and executives:

- Agreed to charge citric acid prices at certain levels and to increase those prices accordingly.
- Agreed to allocate among the corporate conspirators the market shares of citric acid that each participating firm could sell.
- Issued price announcements and price quotations in accordance with the agreements.
- Participated in meetings and conversations for the purpose of monitoring and enforcing adherence to the agreed-upon prices and sales volumes.

Hoffmann-La Roche is a Swiss company headquartered in Basel, Switzerland, and is a wholly owned subsidiary of Roche Holding AG, also based in Basel. During the conspiracy, Hoffmann-La Roche produced citric acid at its Belgian affiliate, SA Citrique Belge NV, located in Tienen, Belgium.

Jungbunzlauer is also a Swiss company headquartered in Basel, Switzerland, and a subsidiary of Jungbunzlauer Holding AG, also located in Basel. During the conspiracy Jungbunzlauer produced citric acid at its plants in Perhofen, Austria and Ladenburg, Germany.

Hoffmann-La Roche, Haas, Jungbunzlauer, and Bichlbauer are charged with violating the Sherman Act, which carries a maximum fine of \$10 million for corporations and \$350,000 for

individuals. The fine may be increased to twice the gain derived from the crime by the defendant or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine of \$10 million for corporations and \$350,000 for individuals.

Since August 1996, the Department has filed charges against the following companies and executives for their roles in the lysine and citric acid conspiracies:

- Anjinomoto Co. Inc. of Tokyo, Japan pleaded guilty and agreed to pay a \$10 million criminal fine, and Kanji Mimoto, its former general manager of the Feed Additives Division and current associate general manager of the International Division, pleaded guilty and was fined \$75,000 for their participation in the lysine conspiracy. Mimoto lives in Japan.
- Kyowa Hakko Kogyo Co. Ltd. of Tokyo, Japan pleaded guilty and agreed to pay a \$10 million criminal fine, and Masaru Yamamoto, its former general manager of the Agricultural Products Department and current general manager of the Food Division, pleaded guilty and was fined \$50,000 for their participation in the lysine conspiracy. Yamamoto lives in Japan.
- Sewon America Inc., located in Paramus, New Jersey, pleaded guilty and has agreed to pay a criminal fine which will be determined by the court, and Jhom Su Kim, its president, pleaded guilty and was fined \$75,000 for their participation in the lysine conspiracy. Sewon America is a subsidiary of Sewon Company Ltd., located in Seoul, South Korea. Kim is from Korea and currently lives in Ridgewood, New Jersey.
- Archer Daniels Midland Co., located in Decatur, Illinois, pleaded guilty to two felony counts for its participation in the lysine and citric acid conspiracies and was fined \$100 million.
- Three former top Archer Daniels Midland executives, Michael D. Andreas, Mark E. Whitacre, and Terrance S. Wilson, and a Japanese executive, Kazutoshi Yamada were indicted for conspiring to fix prices and allocate sales in the lysine market worldwide. A trial date has yet to be set.

- Cheil Jedang Ltd., a Korean corporation, pleaded guilty and agreed to pay \$1.25 million for its participation in the lysine conspiracy.
- Haarmann & Reimer Corp., a New Jersey-based subsidiary of the Germany-based pharmaceutical and chemical giant Bayer AG, pleaded guilty and was fined \$50 million, and Hans Hartmann, a senior executive at the Germany-based Haarmann & Reimer GmbH, pleaded guilty and was fined \$150,000 for their participation in the citric acid conspiracy.

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